

EXHIBIT H

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

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IN RE: PHARMACEUTICAL) MDL NO. 1456
INDUSTRY AVERAGE WHOLESALE) CIVIL ACTION
PRICE LITIGATION) 01-CV-12257-PBS
THIS DOCUMENT RELATES TO)
U.S. ex rel. Ven-A-Care of) Judge Patti B. Saris
the Florida Keys, Inc.,)
vs.) Chief Magistrate
Abbott Laboratories, Inc.,) Judge Marianne B.
No. 06-CV-11337-PBS) Bowler

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(Captions continued on following pages)

VOLUME I

DEPOSITION OF VEN-A-CARE (T. MARK JONES)

Videotaped deposition of T. Mark Jones, held at
the Law Offices of Hunton & Williams, LLP, 1111
Brickell Avenue, Suite 2500, Miami, Florida, 33131,
on Tuesday, March 18, 2008, commencing at 9:06 a.m.,
before Donald W. McKay, RMR, CRR, a Notary Public
for the State of Florida.

1 Q. Do you have an understanding of what
2 Ven-A-Care's business plan was in 1987?

3 A. I believe I do.

4 Q. Can you tell me what was Ven-A-Care's
5 business plan in 1987.

6 A. I believe that Ven-A-Care was started
7 to provide a need or provide a service to
8 something that was needed in Key West. Key West
9 -- and Mr. Cobo has testified to this -- had a
10 large population of HIV patients. You know,
11 there were a lot of gay men that lived in Key
12 West. It was a resort for them. And many of
13 them were very ill, very sick. But the type of
14 illnesses that they had, because they were
15 opportunistic infections, they'd move in and out
16 of hospitals frequently. And a lot of times,
17 while they were sick, they were ambulatory, they
18 could function, but they had to go into hospitals
19 to have medications administered. It was just
20 cumbersome for them. So Ven-A-Care's pharmacy, a
21 home infusion pharmacy, was a new concept for Key
22 West, which allowed myself, other nurses, Luis,

1 to take these and treat these patients in their
2 homes.

3 Q. Now, the business aspect of this was,
4 of course, to start a business in which you
5 provided those services and generated a profit
6 from it. Correct?

7 A. We were a commercial business. We were
8 billing primarily -- or at least in the very
9 beginning -- just commercial insurance companies,
10 yes.

11 Q. I'm sure that there were also certain
12 altruistic aspects to that. I'm not trying to
13 suggest that this was, in any way, inappropriate.
14 But as a business, Ven-A-Care was looking to make
15 a profit. Right?

16 A. Ven-A-Care was a for-profit
17 corporation.

18 Q. Can you tell me how was it that Ven-A-
19 Care in 1987, planned to make a profit from
20 providing home infusion pharmacy services to
21 patients in Key West?

22 A. Well, fundamentally, Ven-A-Care would

1 MR. COOK: Can we go off the record for
2 just a minute while I rearrange some exhibits.

3 THE VIDEOGRAPHER: We're going off the
4 record. The time is 3:43.

5 (Thereupon, a recess was taken,
6 after which the following proceedings were had:)

7 THE VIDEOGRAPHER: We're now back on
8 the record. Videotape No. 6. The time is 3:56.

9 (Exhibit Abbott 704 was thereupon
10 marked.)

11 BY MR. COOK:

12 Q. Mr. Jones, I've handed you a copy of
13 what we've marked Abbott Exhibit 704, which is a
14 November 4, 1994 letter that you sent to Peter
15 Barbera from the Office of the Inspector General
16 in Jacksonville, Florida. Do you see that?

17 A. I do.

18 Q. Do you recall writing this letter?

19 A. Actually writing it, no.

20 Q. Do you recall this letter?

21 A. I do recall this letter.

22 Q. Why did you write Mr. Barbera this

1 letter in November 1994?

2 A. Peter Barbera was working with Maritza
3 Howery or Penniston with the OIG audit in
4 Jacksonville. We had met with her and her boss
5 out of Atlanta, Jerry Dunham, in February of the
6 previous year -- no, I'm sorry -- February this
7 year. I believe it's February of '94. And they
8 were, I think -- I'm trying to figure out how we
9 made contact with them. But they were actually
10 interested in looking at excessive reimbursement
11 of the TPN program. So we had had conversations
12 back and forth. And I think this was something
13 he requested from me, if I had information on
14 particular drugs and prices. So I responded with
15 this letter. I have to read it. I haven't read
16 it in a while.

17 Q. And when you refer to excessive
18 reimbursement for TPN, that's the same subject as
19 your letter to Dr. Vladeck with the toilet seat
20 in 1997. Right?

21 A. Yes.

22 Q. And that's also the same subject as the

1 overcharges worksheets that we just looked at
2 that Ven-A-Care submitted to Medicare with its
3 repayments in 1994. Correct?

4 A. Ven-A-Care repaying, yes.

5 Q. That would have been just before and
6 just after this letter to Mr. Barbera. Correct?

7 A. I'm sorry. What was the question? I'm
8 confused.

9 Q. 540, 541, and 542 were sent just before
10 this letter to Mr. Barbera and after this letter
11 to Mr. Barbera. Correct?

12 A. Well, yeah, they're within the same
13 month, couple months.

14 Q. And you were submitting to Mr. Barbera,
15 a contract that Ven-A-Care had through a GPO
16 called CPN/PPO, for the purpose of certain
17 products. Right?

18 A. This would be our Abbott contract with
19 CPN/PPO, yes.

20 Q. And you attach a copy of that contract.
21 It appears at the third page of Exhibit 704.
22 Right?

1 A. It's the fourth -- well, the cover
2 sheet is the third, yeah.

3 Q. Well, the third page is actually the
4 contract, itself. Right?

5 A. Um-hmm. Yes.

6 Q. And then attached to that as Exhibit A
7 is page 20 of a product list that listed the
8 products you could purchase under your contract
9 with Abbott. Right?

10 A. That's right.

11 Q. As I understand, the purpose of the
12 submission to Mr. Barbera was to give Mr. Barbera
13 the true cost that Ven-A-Care paid for TPN so
14 that -- and here, I'm referring to the last
15 paragraph of your letter -- so that the
16 government could calculate a reasonable overhead
17 for TPN reimbursement. Right?

18 A. An overhead consideration in
19 calculating a reasonable reimbursement for TPN.

20 Q. And you were attempting to help the OIG
21 and CMS to determine how much above cost Medicare
22 should pay for TPN. Right?

1 A. I think, in this situation, yes.

2 Q. So again, in this context, in the
3 context of TPN, Ven-A-Care agrees that it's
4 appropriate for Medicare to pay providers more
5 than their cost for the product cost of the TPN.
6 Right?

7 MR. BREEN: Objection, form.

8 THE WITNESS: I think that what this
9 was focused on, they were looking to see if there
10 were any types of charge -- how they could come
11 up with a reasonable reimbursement for TPN that
12 would cover the preparation of TPN and its
13 administration.

14 MR. BREEN: Objection, non-responsive.

15 I'd ask that the question be read back
16 to the witness.

17 (The question referred to was
18 thereupon read by the reporter as above
19 recorded.)

20 BY MR. COOK:

21 Q. And do you agree with me, Mr. Jones?

22 A. Well, I thought -- can I hear my